

1 Hon. Barbara J. Rothstein
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

PAMINA, LLC, as owner of the vessel, *M/V PAMINA* (Official Number 1143720), BRIAN PICKERING and LAURIE PICKERING, as sole members of PAMINA, LLC, and MARKEL AMERICAN INSURANCE COMPANY, as subrogee of Pamina, LLC, Brian Pickering and Laurie Pickering,

Third-Party Plaintiffs,

v.

DELTA MARINE INDUSTRIES, INC., N C POWER SYSTEMS CO., GLENDINNING PRODUCTS LLC, and DOCKMATE, INC.,

Third-Party Defendants.

IN RE: COMPLAINT AND PETITION OF PAMINA, LLC, as owner of the vessel, PAMINA, FOR EXONERATION FROM OR LIMITATION OF LIABILITY

IN ADMIRALTY

Case No. 2:22-cv-01679-BJR

**STIPULATED MOTION AND ORDER
FOR LEAVE TO FILE FIRST
AMENDED THIRD-PARTY
COMPLAINT**

The Third-Party Defendants, Delta Marine Industries, Inc., N C Power Systems Co., Glendinning Products LLC, and Dockmate, Inc. (collectively, Third-Party Defendants), stipulate that Third-Party Plaintiffs, PAMINA, LLC, as owner of the vessel, *M/V PAMINA* (Official

1 Number 1143720), Brian Pickering and Laurie Pickering, as sole members of Pamina, LLC, and
 2 Markel American Insurance Company, as subrogee of Pamina, LLC, Brian Pickering and Laurie
 3 Pickering (collectively, “Third-Party Plaintiffs”), should be granted leave to file its First
 4 Amended Third-Party Complaint, attached as Exhibit A. Plaintiff’s proposed First Amended
 5 Third-Party Complaint adds additional factual allegations as to Third-Party Defendant’s
 6 Dockmate, Inc. (“Dockmate”) and Glendinning Products LLC (“Glendinning”), to cure the
 7 deficiencies raised in Dockmate’s Motion to Dismiss (Dkt. 66).

8 **I. STIPULATION**

9 **A. Applicable Standard for Amending Complaint.**

10 Pursuant to Federal Rule of Civil Procedure 15(a)(2), “[A] party may amend its pleading
 11 only with the opposing party’s written consent or with the court’s leave. The court should freely
 12 give leave when justice so requires.” (emphasis added). This policy is “to be applied with
 13 extreme liberality.” *Owens v. Kaiser Found Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001)
 14 (quoting *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990)).

15 **B. Justice Requires Leave Be Given to Plaintiff to Amend Its Complaint.**

16 Leave should be granted, as the rules require, absent “any apparent or declared reason -
 17 such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to
 18 cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by
 19 virtue of allowance of the amendment, futility of amendment, etc....” *Forman v. Davis*, 371 U.S.
 20 178, 182, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

21 Justice requires leave be given in this case for the following reasons: (1) all parties
 22 consent and stipulate to permit Third-Party Plaintiffs to amend the Third-Party Complaint to add
 23 additional allegations as to Dockmate and Glendinning; (2) Third-Party Plaintiffs seek to amend
 24 the complaint to include additional factual allegations to cure the deficiencies raised in
 25 Dockmate’s motion to Dismiss (Dkt. 66); (3) this case is highly technical in nature, and the new
 26 allegations Third-Party Plaintiffs seek leave to include in its pleading reflect its perception of the
 27 facts, as well as the information and belief as to how some of these technical systems

1 malfunctioned; (4) this motion and stipulation is timely, as the Court's deadline for parties to
2 amend pleadings is June 26, 2023 (*See* Dkt. 64); and (5) the Third-Party Defendants and Third-
3 Party Plaintiffs stipulate there is no undue prejudice to them as a result of this requested
4 amendment.

5 Accordingly, all parties specifically agree that Third-Party Plaintiffs be granted leave to
6 file their First Amended Third-Party Complaint, attached at Exhibit A.

7 DATED: June 23, 2023

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20 June 23, 2023

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June 23, 2023

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Inc.*

1 II. ORDER

2 Based on the foregoing stipulation between all parties, IT IS HEREBY ORDERED that
3 third-Party Plaintiffs are granted leave to file their First Amended Third-Party Complaint,
4 attached hereto as Exhibit A.

5 Dated: July 6, 2023.

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9 Barbara Jacobs Rothstein
10 U.S. District Court Judge

11 Presented by:

12 */s/ Jonathan W. Thames*